

**Jesse Merrithew**, OSB No. 074564  
Email: jesse@lmhlegal.com  
**Viktoria Safarian**, OSB No. 175487  
Email: viktoria@lmhlegal.com  
Levi Merrithew Horst PC  
610 SW Alder Street, Suite 415  
Portland, Oregon 97205  
Telephone: (971) 229-1241

**Juan C. Chavez**, OSB No. 136428  
Email: jchavez@ojrc.info  
**Brittney Plessner**, OSB No. 154030  
Email: bplessner@ojrc.info  
**Alex Meggitt**, OSB No. 174131  
Email: ameggitt@ojrc.info  
**Franz H. Bruggemeier**, OSB No. 163533  
Email: Fbruggemeier@ojrc.info  
Oregon Justice Resource Center  
PO Box 5248  
Portland, OR 97208  
Telephone: 503 944-2270

**J. Ashlee Albies**, OSB No. 051846  
Email: ashlee@albiesstark.com  
**Whitney B. Stark**, OSB No. 090350  
Email: whitney@albiesstark.com  
**Maya Rinta**, OSB No. 195058  
Email: maya@albiesstark.com  
Albies & Stark LLC  
1 SW Columbia St. Suite 1850  
Portland, Oregon 97204  
Telephone: (503) 308-4770  
Facsimile: (503) 427-9292

**Attorneys for Plaintiffs**

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

DON'T SHOOT PORTLAND, et al.

Plaintiffs

v.

CITY OF PORTLAND, a municipal corporation,

Defendant.

Case No.

DECLARATION IN SUPPORT OF PETITION  
FOR TEMPORARY RESTRAINING ORDER

I, Daniel Rushton, declare as follows pursuant to 28 USC § 1746:

1. I have personal knowledge of the information contained in this declaration. If called upon to do so, I could and would competently testify regarding the matters set forth herein.
2. I have been living in the greater Portland area for the last year and a half and in Oregon for the last six years.
3. On Tuesday, June 2, 2020, I went to protest the systemic racism and profiling within the police nationally and specifically within the Portland Police Bureau, the militarization of the police, and Mayor Wheeler's and the City's consistent decisions to over fund and over arm the police force instead of putting that money into our communities. I was there also to protest the police's unlawful public executions of unarmed black citizens and harmful police culture of covering for one another as well as to stand in solidarity with other protests in the names of George Floyd and Breonna Taylor and countless others who have been killed.
4. I went with a group five people to provide medical aid, such as help from exposure tear gas and basic first aid. I am an Emergency Medical Technician and a high school educator.
5. At 6:00 p.m., we marched downtown and eventually wound up near the fenced off portion surrounding the blocks near the Justice Center. I believe we were around SW Yamhill and 3<sup>rd</sup> Ave.
6. People chanted in support and in memory of George Floyd and Breonna Taylor, voicing anger against the police, voicing anger against Ted Wheeler, and other related chants that are typical of these protests that we have to keep holding over

and over and over.

7. Almost everyone wore masks to prevent the spread of COVID-19. It was not possible to maintain a 6-foot space between one another, although people seemed to try their best to do so.
8. People were not violent. The police were in riot gear. I saw many children and teenagers around me. I believe I saw a child, no older than 15, throwing an almost entirely empty disposable plastic water bottle towards the police, but any time something similar happened it was shut down by fellow protestors. The police said, "do not tamper with the fencing or you will be subject to force." I did not see anyone tampering with the fence. I saw at least one officer who appeared to be smiling in excited anticipation of using force against protesters.
9. We saw police move in behind us in full riot gear. In previous nights, that had been their strategy for tear gassing the crowds, but usually not until initial tear gas and flashbangs had been shot towards the front of the group of protesters. It seemed like an attack by the police was imminent, but I could not leave because I was worried about the danger that was likely to occur to this small group of about 15 people, including a young man in a walker, and youth of all races no older than my students. There had been no warning that the police were about to start using force only general warnings.
10. I was pleading with some of the young people near me to join the larger group, which was moving away from the fence, for their own safety and warning them that I had a bad feeling that we were about to be attacked. They were pleading with the police to put down their weapons and to stand with us and show their

support and solidarity. No one threw anything, no one used more than their voices, not even threats. They were just begging, just begging them not to do this. I saw no violence from anyone in the crowd, and it seemed like the crowd believed that that would mean they wouldn't be tear gassed, which is why they stayed. The crowd was not asked to leave.

11. It is hard to say the exact time, but the tear gas started somewhere between 9:30 p.m. and 10:15 p.m., I believe. I was surprised because the sun had just gone down and it was much earlier than previous nights when the police had attacked protesters with chemical weapons.
12. We heard bangs a few blocks up and saw people running, and then the police in front of us fired tear gas and flash bangs at us. The young man in the walker couldn't breathe and four other young people near me could not as well. One girl, around 16 years old, was having a panic attack and could not be consoled. I was handing out vinegar-soaked rags to aid in breathing and prevent the tear gas from entering their airways. I was also trying to help to calm them as much as I could and coach them through how to stay safe as more explosions happened around us and more gas was deployed. We were a small group of five incapacitated individuals receiving care from one individual, me, and clearly did not pose any threat to the police.
13. The tear gas hurts. It's scary. I had to constantly shut out the part of my brain that was screaming and begging me to leave and telling me that I was going to die.
14. The girl having the panic attack was screaming and crying saying she was going to die, and I had to breathe with her and calm her down and assure her that we all

loved her and we weren't going to let anything happen to her and that she was going to be okay.

15. I was coughing. We were all coughing inches from one another in a pandemic and passing around rags soaked with vinegar so that we could breathe.

16. I did not go to a doctor. I haven't had time.

17. Later, I got shot with a rubber bullet in my leg while walking away from the area with my hands up.

18. Police used tear gas on the Friday, Saturday, and Monday prior, from what I remember. Only on Friday night did there seem to be a reason for the police to use tear gas. Otherwise, I have seen no excuse for them to use it besides cowardice or eagerness to suppress the citizens' voices. On those other nights, I've been dragging people who aren't even protesting out of clouds of smoke. Grown men and children alike, crying for their mothers. Collapsed.

19. I'm terrified. I can't sleep. I can't eat. But I have to go back out to protest. I know that what the police do to Black people is wrong and cannot stand. And I know that protesters will need my help when they are attacked by the police while protesting these injustices. I can't let a bunch of kids stand alone in the street to scream and cry into the void because they are so certain, so convinced they will die while protesting other police actions. That is the intended purpose of the police using these chemical weapons: to scare you from coming back.

///

///

///

///

I declare under penalty of perjury under the laws of the United States of America  
that the foregoing is true and correct.

Executed on June 5, 2020.



Daniel Rushton (Jun 5, 2020 15:14 PDT)  
\_\_\_\_\_  
Daniel Rushton